

ASSEMBLY BILL

No. 313

Introduced by Assembly Member Frazier

February 12, 2013

An act to amend Section 23123.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 313, as introduced, Frazier. Vehicles: electronic wireless communications devices: prohibitions.

Under existing law, a person is prohibited from driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, unless the person is using an electronic wireless communications device that is specifically designed and configured to allow voice-operated and hands-free operation to dictate, send, or listen to a text-based communication, and it is used in that manner while driving. A violation of this provision is an infraction.

This bill would delete the exception to that prohibition for the use, while driving, of an electronic wireless communications device that is specifically designed and configured to allow voice-operated and hands-free operation to dictate, send, or listen to a text-based communication. The bill would make a related statement of legislative intent regarding distracted driving. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Distracted driving is a dangerous epidemic on America's
4 roadways. In 2011, more than 3,300 people were killed in crashes
5 involving a distracted driver. Approximately 400,000 people were
6 injured in motor vehicle crashes involving a distracted driver.

7 (b) New research published in 2012 indicates that the increase
8 in cognitive load and decrease in working memory when talking
9 or texting while driving increases crash risk significantly.

10 (c) Driving while using a cell phone reduces the amount of brain
11 activity associated with driving by 37 percent.

12 (d) Eleven percent of all drivers under 20 years of age involved
13 in fatal crashes were reported as distracted at the time of the crash.

14 (e) A vast majority of research suggests that there is no
15 difference in the crash risk of hand-held or voice-operated devices.
16 Furthermore, no study has determined that texting while driving
17 is safe.

18 (f) Drivers are four times more likely to crash while talking
19 hands free on a phone, which is the same crash risk as driving with
20 a blood alcohol content of 0.08.

21 (g) Sending or receiving a text takes a driver's eyes from the
22 road for an average of 4.6 seconds, which, at 60 miles per hour,
23 is the equivalent of driving the length of a football field blind.

24 (h) Text messaging while driving creates a crash risk of 8 to 23
25 times that of driving while not distracted.

26 (i) Nine out of ten drivers support laws that ban texting.

27 SEC. 2. Section 23123.5 of the Vehicle Code is amended to
28 read:

29 23123.5. (a) A person shall not drive a motor vehicle while
30 using an electronic wireless communications device to write, send,
31 or read a text-based communication, ~~unless the electronic wireless~~
32 ~~communications device is specifically designed and configured to~~
33 ~~allow voice-operated and hands-free operation to dictate, send, or~~

1 ~~listen to a text-based communication, and it is used in that manner~~
2 ~~while driving.~~

3 (b) As used in this section “write, send, or read a text-based
4 communication” means using an electronic wireless
5 communications device to manually communicate with any person
6 using a text-based communication, including, but not limited to,
7 communications referred to as a text message, instant message, or
8 electronic mail.

9 (c) For purposes of this section, a person shall not be deemed
10 to be writing, reading, or sending a text-based communication if
11 the person reads, selects, or enters a telephone number or name in
12 an electronic wireless communications device for the purpose of
13 making or receiving a telephone call ~~or if a person otherwise~~
14 ~~activates or deactivates a feature or function on an electronic~~
15 ~~wireless communications device.~~

16 (d) A violation of this section is an infraction punishable by a
17 base fine of twenty dollars (\$20) for a first offense and fifty dollars
18 (\$50) for each subsequent offense.

19 (e) This section does not apply to an emergency services
20 professional using an electronic wireless communications device
21 while operating an authorized emergency vehicle, as defined in
22 Section 165, in the course and scope of his or her duties.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.